

EXHIBIT A

State Court of Fulton County
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Civil Division

**IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA**

SULLIVAN HEALTHCARE CONSULTING,
LLC,

Plaintiff,

vs.

GROVE CITY SURGERY CENTER, LLC,

Defendant.

CIVIL ACTION FILE NO.

COMPLAINT

Plaintiff, Sullivan Healthcare Consulting, LLC, for its Complaint against Defendant, Grove City Surgery Center, LLC, respectfully shows the Court as follows:

PARTIES, JURISDICTION AND VENUE

1. Sullivan Healthcare Consulting, LLC (“SHC”) is a Georgia limited liability company with its principal place of business located at 2655 Northwinds Parkway, Alpharetta, Fulton County, Georgia 30009.

2. Grove City Surgery Center, LLC (“GCSC”) is an Ohio limited liability company with its principal place of business located a 1345 Stringtown Road, Grove City, Ohio 43123.

3. This Court has personal jurisdiction over GCSC pursuant to O.C.G.A. § 9-10-91.

4. This Court has subject matter jurisdiction over this action.

5. Venue is proper in this Court, given that SHC is located in Fulton County, Georgia, and GCSC has transacted business in Fulton County.

6. GSCS may be served with process pursuant to O.C.G.A. § 9-10-94 by service on its Statutory Agent, Acme Agent, Inc., 41 South High Street, Suite 2800, Columbus, Ohio 43215.

STATEMENT OF FACTS

7. SHC is a leader in the field of healthcare consulting. SHC offers a full range of perioperative, sterile processing, and healthcare consulting services.

8. GCSC is a facility that offers outpatient surgical care in Grove City, Ohio.

9. On January 24, 2018, SHC and GCSC entered into an agreement for SHC to provide interim assistance to GCSC, by placing an Interim Director of Nursing at GCSC to support and participate in process improvement initiatives and to help recruit and mentor a permanent director. A true and correct copy of that agreement (the “Interim DON Agreement”) is attached hereto as Exhibit A. Further, the Interim DON Agreement is incorporated herein by reference.

10. Paragraph 19 of the Contractual Terms of the Interim DON Agreement provides that the agreement “shall be interpreted in accordance with the laws of the State of Georgia.”

11. SHC fully performed its obligations under the Interim DON Agreement by placing an Interim Director of Nursing at GCSC.

12. GCSC accepted SHC’s placement of the Interim Director of Nursing but has refused to pay SHC the amounts due under the Interim DON Agreement.

13. GCSC currently owes SHC \$257,151.83 under the Interim DON Agreement for contracted fees, expenses, and additional late payment charges.

COUNT ONE
Breach of Contract

14. SHC incorporates by reference each and every allegation set forth above.

15. The Interim DON Agreement constitutes a binding contract between SHC and GCSC.

16. SHC has performed all conditions precedent under the Interim DON Agreement and otherwise has performed all of its obligations under that agreement.

17. By failing and refusing to pay the contracted fees, expenses, and late payment charges due under the Interim DON Agreement, GCSC has materially breached the parties' contract.

18. As a proximate result of these breaches of contract, SHC has suffered damage.

19. SHC seeks the recovery of all amounts due under the Interim DON Agreement, including, without limitation, all contracted fees, expenses, and late payment charges. SHC further seeks the recovery of prejudgment interest.

20. GCSC has acted in bad faith, has been stubbornly litigious, and has caused SHC unnecessary trouble and expense. Accordingly, and pursuant to O.C.G.A. § 13-6-11, SHC is entitled to recover all of the attorneys' fees and expenses of litigation incurred by SHC in this case.

PRAAYER FOR RELIEF

WHEREFORE, Plaintiff, Sullivan Healthcare Consulting, LLC, respectfully requests that this Court:

- (a) award judgment in SHC's favor;
- (b) award damages to SHC for breach of contract;
- (c) award late payment charges and prejudgment interest to SHC;
- (d) award SHC its reasonable attorneys' fees and expenses of litigation; and
- (e) award SHC any other relief the Court deems just and equitable.

Dated: June 4, 2019

/s/James. F. Bogan III
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Ga. Bar No. 065220
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KILPATRICK TOWNSEND &
STOCKTON LLP
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*Counsel for Plaintiff Sullivan Healthcare
Consulting, LLC*

EXHIBIT A



◆ PROPOSAL ◆

**INTERIM DIRECTOR OF NURSING
FOR
GROVE CITY SURGERY CENTER**

**- PREPARED BY -
SULLIVAN HEALTHCARE CONSULTING, LLC**

**- PREPARED FOR -
GROVE CITY SURGERY CENTER
GROVE CITY, OHIO
M-3108**

JANUARY 18, 2018

- CONFIDENTIAL -

TABLE OF CONTENTS

	PAGE
PROPOSED INTERIM DIRECTOR ASSISTANCE AND SCHEDULE	1
INTERIM DIRECTOR ROLE	1
SHC INTERIM DIRECTOR ASSIGNMENT	1
CONTRACT SCHEDULE	2
PROJECT COSTS	3
CONSULTING FEES	3
PAYMENT SCHEDULE	3
ASSUMPTIONS AND CONSULTANT CONDITIONS	4
CONTRACTUAL TERMS	5
CLIENT APPROVAL	9

ATTACHMENT

ATTACHMENT A – SHC CONSULTING PROFILE	A-1
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PROPOSED INTERIM DIRECTOR ASSISTANCE AND SCHEDULE

Grove City Surgery Center (GCSC) has requested a proposal from Sullivan Healthcare Consulting, LLC (SHC) to provide interim assistance for their surgery center. Based on this request, SHC has completed the following proposal to place a highly qualified Interim Director of Nursing at GCSC to support and participate in process improvement initiatives and help to recruit and mentor a permanent director once this candidate has been selected.

INTERIM DIRECTOR ROLE

The interim director will be placed on site to:

- 1) Manage the overall operations of the surgery center OR in accordance with the center's policies, standards of nursing practices, and governmental and regulatory agencies for the perioperative areas
- 2) Address management issues identified through the center's process improvement efforts
- 3) Provide administrative and financial accountability for planning, directing, staffing, coordinating, and controlling functions and activities of the OR
- 4) Monitor and propose improvement initiatives related to the center's customer satisfaction processes
- 5) Participate in preparing annual operations and capital expense budgets; direct necessary analysis, factoring financial need into budget projections, and present per center protocols
- 6) Provide monthly analysis and reporting of revenue and expenses per center processes
- 7) Administer data collection system for staffing utilization, room utilization, and preparation of periodic productivity reports used at the center
- 8) Maintain or propose revisions to programs for staff retention and recruitment, continuing education, and competency-based learning
- 9) Participate in perioperative standing committees and center-wide committees as assigned
- 10) Communicate with physicians and work closely with the Medical Director to maintain a high standard of medical care and development of client relationships with surgeons
- 11) Assist with recruitment and transfer of the OR to a new director
- 12) Perform duties as assigned by the Administrator or other designee

SHC INTERIM DIRECTOR ASSIGNMENT

The assignment of the interim director is based on consultant availability at the time the signed contract is received at the SHC office. The consultant currently planned for the assignment is

Ms. Cindy King. A consulting profile for Ms. King is provided in Attachment A. Depending on when the contract is signed and the project is anticipated to start, another consultant may be considered for the assignment and a consulting profile will be forwarded to GCSC.

The interim director will be placed to provide day-to-day management and direction to the OR. If opportunities for operational improvement are apparent, the interim director will implement change in the same manner as an employed director, and will be responsible to GCSC in the same manner as an employed director.

In the event that GCSC wishes to replace the SHC consultant assigned to the project, a two-week notice in writing to SHC will be required.

CONTRACT SCHEDULE

The interim director will be placed on site on a full-time basis. The contract will be scheduled for a six-month period and is renewable on a three-month basis thereafter. Renewals must be requested 45 days or more before the end of the contract and may require another SHC consultant with similar or greater experience and capability.

The project is anticipated to start within 30 days after receipt of the signed contract at the SHC office.

Termination of contract before expiration would require 30 days' notice.

PROJECT COSTS

The consulting fees for the project are noted below.

CONSULTING FEES

- ◆ Weekly Interim Director assistance for a six-month period \$7,500 per week, plus out-of-pocket expenses*

*Out-of-pocket expenses include consultant travel, lodging, transportation, on-site per diem maintenance, telephone charges, copying, postage/shipping, etc. The out-of-pocket expenses will be dependent upon amount and timeliness of in-house assistance and variable travel expenses over the course of the project.

GCSC will provide housing, meals, and transportation expenses for the interim director during tenure at GCSC. Travel expenses include travel from place of residence to hospital city, and to and from hospital while on site. In most cases, this requires use of an automobile. SHC will use whatever means necessary to keep expenses at a minimum, including use of advanced, low-priced ticketing, and use of monthly hotel rates or hospital-owned/recommended housing (efficiency/studio) with housekeeping service. Housing must be reasonably furnished and equipped for weekday use (free internet; light cooking capability – a microwave, coffee maker, and refrigerator at a minimum), safe, and relatively convenient to the hospital. If housing is a weekly hotel room or suite, accommodations should be made for the interim director to store things on the weekends.

SHC recognizes six national holidays that may fall during the contract (New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day). If one of these holidays falls during the weekly schedule, and it is mutually agreed upon that the consultant should work the holiday, 20% of the weekly fee will be billed for this time. If it is mutually agreed upon that the consultant should not work the holiday, 20% of the weekly fee will not be billed for that day. Time away from the hospital for SHC company meetings, vacations, or other factors will not be charged.

PAYMENT SCHEDULE

The payment schedule follows:

- ◆ Consulting fees for the Interim Director will be billed one month in advance.
- ◆ Out-of-pocket expenses will be billed monthly as incurred.

Invoices for the consulting fees and out-of-pocket expenses will be sent via e-mail.

ASSUMPTIONS AND CONSULTANT CONDITIONS

The project completion dates and costs are based on the following assumptions and conditions:

- 1) GCSC will provide a project coordinator who has authority to coordinate information collection and establish meeting schedules.
- 2) The proposed methodology and schedule are followed. A visit plan will be submitted to GCSC upon acceptance of the proposal or sooner, if so requested.
- 3) GCSC personnel will be available for interviews so that consultant will have full schedules while on site (at least a seven-day notice will be provided).
- 4) GCSC will provide office space for use by the consultant while on site. Space is required to coordinate information among consultant, for GCSC administration and medical staff to locate consultant, and for consultant to store materials.
- 5) Within 21 days from the date of proposal, a notice of intent to contract must be made.
- 6) The costs quoted in this proposal will remain in effect for a period of 30 days from the date of the proposal. Proposal is void at the end of 30 days.

CONTRACTUAL TERMS

- 1) **Contract Formation.** This proposal shall become a binding agreement (the Agreement) between the parties when it is accepted in writing and signed by both parties.

Parties. The parties to this Agreement shall be Sullivan Healthcare Consulting, LLC (Consultant) and Grove City Surgery Center (Client).

Consultant

Sullivan Healthcare Consulting, LLC
2655 Northwinds Parkway
Alpharetta, Georgia 30009
(734) 761-7100

Client

Grove City Surgery Center
1345 Stringtown Road
Grove City, Ohio 43123
(614) 544-4014

- 2) **Notices.** Any notice given in connection with this Agreement shall be sufficient if in writing and delivered by messenger or sent by postage, prepaid mail, or by facsimile to the address of the recipient set forth herein or as changed by the recipient by notice given hereunder. Notices shall be effective when received by the recipient or its legal representative. The methods of delivery described above are not intended to be exclusive, and any written notice actually received shall be sufficient.
- 3) **Relationships and Responsibilities.** The relationship of Consultant to Client is that of independent contractor. This Agreement does not create a partnership, association or other business entity. Except with respect to Consultant decisions regarding management of hospital staff, neither party has the right to bind the other. Consultant shall perform its duties hereunder in a professionally competent manner, using the standard of care customary among the providers of similar health care management consulting services in the United States.
- 4) **Indemnity by Client.** Client shall indemnify, defend and hold harmless the other party, its managers, shareholders, directors, officers, employees, agents and affiliates, from and against claims by third parties (including costs and actual attorney fees) arising out of or based upon services, breach, or any act, error or omission relating to the performance of duties under this Agreement, except insofar as any such claim arises out of or is based upon negligence or willful misconduct of the indemnified party, its employees or agents. Consultant shall give Client prompt notice of any such claim, allow the Client to control the defense and/or settlement of such claim, and cooperate with Client in all matters related thereto. The indemnity obligations hereunder shall survive the termination of this Agreement. Neither this Agreement nor the services to be rendered hereunder are intended for the benefit of third parties. All services rendered by Consultant are rendered only to Client, and Client is solely responsible for whether and how such services (and the advice embodied therein) are used with respect to employees, patients, and other third parties.
- 5) **Confidential Information.** As used herein, the term "Confidential Information" shall mean all intellectual property of either party, and all information, documentation, software (including listings thereof and documentation related thereto) related to either Consultant's or Client's business and affairs and other information disclosed by or made available by

either party to the other, including but not limited to either party's business plans or present or future services or policies.

- ♦ **Obligations of the Parties Concerning Confidential Information.** All Confidential Information coming into either party's possession will be treated by the receiving party as confidential and will not be disclosed to any third party for any purpose whatsoever except to allow the receiving party to carry out the purposes of the disclosure. In addition, the receiving party shall not incorporate any of the Confidential Information in any product or process (whether or not the Confidential Information is disclosed or not) without the prior written permission of the other party. Receiving party agrees to take all reasonable steps to safeguard the confidentiality of all such Confidential Information, and agrees that the Confidential Information shall only be disclosed to those of its employees who have a need to know the same in order for the receiving party to carry out the purposes of the disclosure. Receiving party shall take all steps necessary to bind each of its employees to obligations of confidentiality and non-use in the event Confidential Information is to be disclosed to such employees, including, but not limited to, having each such employee sign a copy of this Agreement.
- ♦ In addition, a receiving party agrees to treat Confidential Information in strict confidence and shall undertake the following additional obligations with respect thereto:
 - To use the Confidential Information only for purposes necessary to further the purpose of this disclosure
 - Not to copy any part or all of the Confidential Information
 - Not to disclose Confidential Information to any unrelated party, and to disclose Confidential Information to its employees, consultants or agents only to the extent necessary to carry out the purposes for which the Confidential Information was disclosed by the other party; and
 - To return all Confidential Information, including all plans, records, drawings and copies thereof to the disclosing party immediately upon written request, or upon the conclusion of the review of such records by the receiving party, whichever first occurs
- ♦ The obligations of a receiving party under this Agreement do not apply to any Confidential Information which:
 - Can be shown by the receiving party to have been in its possession prior to receipt thereof from the other party; or
 - Is now, or hereafter becomes, generally available to the public through no act or failure to act by the receiving party or of any of its employees; or
 - Was independently developed by receiving party or its employees for purposes unrelated to duties owed to the Company; or
 - Can be shown by the receiving party to have been received by them on a non-confidential basis from a third party who itself did not acquire the same, directly or indirectly, from the other party
- ♦ **Acknowledgment.** The parties mutually acknowledge and agree that each party's Confidential Information is proprietary to and a valuable trade secret of the party and that any disclosure or unauthorized use of either party's Confidential Information by the other

- 17) **Insurance/Liability.** Consultant agrees to carry at all times during the effectiveness of this Agreement professional liability insurance coverage in amounts no less than \$1,000,000 USD per occurrence and \$3,000,000 USD in the aggregate.
- 18) **Agreement Not to Hire.** Consultant and Client agree that they will not, and will not permit any affiliated institution to employ, or offer to employ, any of the persons employed by Consultant or Client, likewise, until after the expiration of one year after termination of this Agreement.
- 19) **Interpretation of Agreement.** This Agreement shall be interpreted in accordance with the laws of the State of Georgia.
- 20) **Late Charge.** A late charge of one percent per month will be assessed for all invoices outstanding more than 60 days.
- 21) **Entire Agreement.** This document represents the entire Agreement of the parties and any amendments must be in writing and executed by both parties.

CLIENT APPROVAL

To approve this project, Client must sign below and return a copy to Consultant. Upon receipt of the signed contract, Consultant will contact Client to discuss the project startup.

By signing below, the parties have caused this Agreement to be executed by their duly authorized officers or representatives.

CONSULTANT SIGNATURE

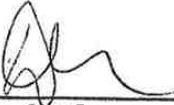


January 18, 2018

Randall Heiser – President
Sullivan Healthcare Consulting, LLC
Alpharetta, Georgia

Date

CLIENT SIGNATURE



Grove City Surgery Center
Grove City, Ohio

1/24/2018

Date

Printed Name of Authorized Signer

Administrator

Title

- ATTACHMENT A -

SHC CONSULTING PROFILE



Cindy King, RN
Surgery Management Consultant

Cindy King has extensive experience working with ambulatory surgery centers (ASCs) and large hospital systems, providing expertise in clinical, operational, regulatory, and accreditation processes and management oversight for implementation and compliance during daily operations. She has more than 30 years' experience working in an ASC setting with 16 years as an ASC director of nursing. She has more than 16 years' experience as a nursing consultant in director and vice president roles.

Ms. King's experience includes:

- ◆ As Associate Vice President-Clinical, Quality & Compliance and Director of Quality of Services for a surgery center consulting firm with responsibility for 25-30 facilities nationwide
 - Assured each facility was in compliance with corresponding policy and procedures
 - Educated, updated, and implemented policy and procedures at corporate facilities
 - Monitored continuous quality improvement activities to assure that each facility was in compliance with corresponding accreditation standards
 - Ensured that all centers were performing within compliance of their specific state association regulatory bodies as well as other federal guidelines applicable to ASCs (e.g., Medicare, AAAHC, The Joint Commission, OSHA, etc.)
 - Provided assistance with completion of occurrence reports, root cause analysis, and notice of potential claims
 - Monitored operating and capital budget for centers related to clinical areas, and involved with trouble-shooting any variances as these related to increased expenses
 - Directed all centers' clinical processes to determine potential opportunities to improve efficiency
 - Assisted centers in coordinating processes with ancillary purchased service groups
 - Assisted in coordinating improved communication between clinical areas, business office, and corporate support services
 - Directed all internal/external benchmarking efforts between centers and as they related to other facilities on a national level

- Accountable for clinical department budget (e.g., staffing, supplies, education, travel)
- Involved with associated internal groups at the corporate level, such as client services, materials management, finance, human resources, and development/operations preparations
- Involved with opening a day surgery facility in South Hampton, England and responded to an ITN and early development of accreditation standards
- Assisted centers in preparations for state licensure and accreditation organization surveys
- Facilitated communication for clinical personnel among centers and coordinated educational meetings and conferences for these groups
- ◆ As Director and Director of Nursing for several surgery centers
 - Assisted in the initial opening and management of a new physician-owned freestanding ASC
 - Performed physician marketing for potential investors
 - Managed all daily clinical operations of the centers, including pre-op, OR, and PACU
 - Responsible for all clinical staffing, staff development, surgery scheduling, provision and maintenance of equipment/instrumentation, and material management
 - Accountable for a clinical budgetary process for medical supplies, staffing, equipment, maintenance contracts, etc.
 - Involved with various committee work (e.g., quality management, medical executive and the board of directors)
 - Involved in the first AAAHC accreditation for facility
 - Interim division manager of three separate ORs in different locations (ASC and hospital)
 - Provided direct patient care and worked with physicians and interdisciplinary team
 - Assisted with preparation for Medicare survey
 - Member of the medical executive committee
 - Assisted in strategic planning and organizational goals

Ms. King received her Graduate Diploma from Miami Valley Hospital School of Nursing, Dayton, OH:

Ms. King is a National Surveyor for Accreditation Association for Ambulatory Health Care (AAAHC); a Certified Professional in Health Care Quality; and she completed a course for Advanced Legal Nurse Consultant.